

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Miscellaneous Proceeding as to:

Raymond Curt Todd, Sr, and

Yarelis Rivera,

Defendants.

Case No. 21-00302-KRH

**NOTICE OF UNITED STATES TRUSTEE'S MOTION
FOR RULE 2004 EXAMINATION**

PLEASE TAKE NOTICE that the United States Trustee has filed with the Court a **Motion for Rule 2004 Examination** (the "Motion") in the above-captioned case. A copy of the Motion is being served on you simultaneously herewith.

If you do not want the Court to grant the relief sought in the Motion or if you want the Court to consider your views on the Motion, then on or before **seven (7) days** before the scheduled hearing date on the Motion, you or your attorney must:

(X) File with the Court, at the address below, a written response with supporting memorandum pursuant to Local Bankruptcy Rule 9013-1(H). You must mail or otherwise file it early enough so the Court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond, Virginia 23219

Kathryn R. Montgomery, Esq., AUST (Va. Bar No. 42380)
Shannon Pecoraro, Esq. (Va. Bar No. 46864)
Jason B. Shorter, Esq. (Va. Bar No. 80929)
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

You must also serve a copy on:

Jason B. Shorter, Esq.
Trial Attorney
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

- (X) Attend a hearing on the Motion which has been scheduled for **December 1, 2021 at 12:30 p.m.** before the Honorable Kevin R. Huennekens, United States Bankruptcy Court, 701 East Broad Street, Courtroom 5000, Richmond, VA 23219.

REMOTE HEARING INFORMATION: Due to the COVID-19 public health emergency, no in-person hearings are being held. This hearing will take place remotely through Zoom on the date and time scheduled herein. To appear at the hearing, you must send, by email, a completed request form (the “Zoom Request Form”), which is available on the Court's internet website at www.vaeb.courts.gov, on the page titled, “Temporary Emergency Provisions Regarding ZoomGov Remote Proceeding Access Information.”

Email your completed Zoom Request Form to the email address listed for the Judge assigned to the case. Following receipt of your Zoom Request Form, Court staff will respond to the email address from which the request was submitted with additional information on how to participate through Zoom.

The email address shall be used only to submit Zoom Request Forms. No other matters or requests will be considered by Court staff, and under no circumstances will any such matters or requests be brought to the Judge’s attention. Failure to comply with these instructions may result in appropriate action, including but not limited to the imposition of sanctions.

PLEASE NOTE: You MUST submit the Zoom Request Form no later than two (2) business days prior to this hearing. Any documentary evidence the parties wish to present at the hearing must be filed with the Court in advance of the hearing

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that requested relief without further notice or hearing.

Date: November 1, 2021

John P. Fitzgerald, III
Acting United States Trustee
Region Four

By: /s/ Jason B. Shorter
Jason B. Shorter
Trial Attorney
Office of the United States Trustee
701 E. Broad St., Ste. 4304
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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2021, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. Additionally, a copy of the same was deposited in the United States Mail, First Class, postage prepaid, on the same date, addressed as follows:

Raymond Curt Todd, Sr.
10008 Craigs Church Lane
Spotsylvania, VA 22551

Yarelis Rivera
103B Broadway 204
Kissimmee, FL 34741

/s/ Jason B. Shorter
Jason B. Shorter, Trial Attorney
Office of the United States Trustee

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In re:

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UNITED STATES TRUSTEE’S MOTION FOR RULE 2004 EXAMINATION

COMES NOW JOHN P. FITZGERALD, III, Acting United States Trustee for Region Four (the “United States Trustee”), by and through the undersigned counsel, seeking entry of an order authorizing examination of Raymond Curt Todd, Sr., pursuant to Federal Rule of Bankruptcy Procedure 2004 (this “Motion”). In support of this Motion, the United States Trustee represents and alleges as follows:

FACTS

1. On September 7, 2021, Raymond Curt Todd, Sr. (the “Debtor”), filed a voluntary petition (the “Petition”) with this Court under chapter 13 of the Bankruptcy Code. *See* Case No. 21-32717, *generally*.

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Jason B. Shorter, Esq. (Va. Bar No. 80929)
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2. The Debtor filed the Petition *pro se* but disclosed in the Petition that he was assisted by Bankruptcy Petition Preparer Yarelis Rivera (“Rivera”). *Id.* at ECF No. 1; *see also* ECF No. 4.

3. While Case No. 21-32717 was pending, the Debtor did not file a required chapter 13 plan. *See* Case No. 21-32717, *generally*.

4. On October 20, 2021, the Court held a hearing on the Debtor’s failure to file his chapter 13 plan, at which only counsel for the United States Trustee appeared. *See* Case No. 21-32717 at ECF No. 17. The Court dismissed the Debtor’s case by order entered October 22, 2021, for the Debtor’s failure to file a required chapter 13 plan. *Id.* at ECF No. 18.

5. Following dismissal of Case No. 21-32717, the Court opened the instant miscellaneous proceeding for the purpose of allowing the United States Trustee to review the services furnished by Rivera to the Debtor. Therefore, the United States Trustee files the Motion herein to be permitted to formally examine the Debtor.

ARGUMENT

Federal Rule of Bankruptcy Procedure 2004 allows for examination of any entity by order of the Court. Fed. R. Bankr. P. 2004(a). The scope of the examination, as set forth in the Rule, may relate to “the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate . . . [.]” Fed. R. Bankr. P. 2004(b). In chapter 12 and chapter 13 cases, the scope of the examination may be much broader – “any . . . matter relevant to the case . . . [.]” *Id.*

The United States Trustee seeks to review the scope of services provided to the Debtor by Rivera. Based on the foregoing recitation of facts and statement of law, the United States Trustee

submits that examination pursuant to Federal Rule of Bankruptcy Procedure 2004 is appropriate. *See also, e.g., In re Smith*, 2010 WL 5420264 (Bankr. D.D.C. Dec. 23, 2010) (in denying a bankruptcy petition preparer's motion to quash a Rule 2004 subpoena, finding that the services performed by such a person are within the permissible scope of a Rule 2004 examination).

Wherefore, the United States Trustee respectfully requests that this Motion be granted; that the Debtor be required to participate in an examination under Federal Rule of Bankruptcy Procedure 2004 at a time and place designated by the United States Trustee¹ (via telephonic and/or video-conferencing format); and that the United States Trustee have such other and further relief which the Court deems proper.

Respectfully requested,

JOHN P. FITZGERALD, III
Acting United States Trustee, Region Four

By: /s/ Jason B. Shorter
Jason B. Shorter
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701 E. Broad St., Ste. 4304
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¹ The United States Trustee reserves the right to designate that such examination be conducted via telephonic and/or video-conferencing format due to the ongoing Covid-19 pandemic.

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/s/ Jason B. Shorter
Jason B. Shorter, Trial Attorney
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